

December 7, 2017

Dear State Lawmaker:

The Energy, Environment and Agriculture Task Force will consider making the ***Critical Infrastructure Protection Act*** an official ALEC model policy at the 2017 States & Nation Policy Summit. We would appreciate your support of this proposal.

In recent years there has been a growing and disturbing trend of individuals and organizations attempting to disrupt the operation of critical infrastructure in the energy, manufacturing, telecommunications, and transportation industries. Energy infrastructure is often targeted by environmental activists to raise awareness of climate change and other perceived environmental challenges. These activities, however, expose individuals, communities, and the environment to unacceptable levels of risk and can cause millions of dollars in damage.

Recent examples of targeted critical infrastructure include:

- Two attempted bombings of natural gas pipelines in Oklahomaⁱ and Texasⁱⁱ in 2011 and 2012, respectively;
- Gunmen opened fire on an electrical substation near San Jose, California, in 2013 that severely damaged 17 transformers and caused over \$15 million in damages. Prior to the attack, fiber-optic telecommunications cables were cut by the culprits, which knocked some local 911 services offline;ⁱⁱⁱ
- Roughly a dozen activists in October 2016 used bolt cutters to simultaneously shut off valves attached to five pipelines in four states along the U.S.-Canadian border, affecting a network that moves roughly 15 percent of the oil consumed in the U.S.;^{iv}
- A variety of “coordinated physical attacks” along the Dakota Access Pipeline were conducted that included at least two cases of vandals damaging the pipeline using blow torches in South Dakota and Iowa in March 2017;^v and
- Vandals fired guns into, and set fire to a Montana wastewater treatment plant in October 2017, causing over \$1 million in damage.^{vi}

As the private sector continues to expand and maintain the infrastructure necessary to safely and reliably deliver energy and other services to hundreds of millions of Americans, policymakers should continue to consider how they can help discourage acts of sabotage. At the federal level, a bipartisan group of 84 members of Congress recently sent a letter to U.S. Attorney General Jeff Sessions asking if existing federal law sufficiently enabled the Department of Justice to prosecute criminal activity against energy infrastructure.

States can and should play a role as well. Earlier this year, the State of Oklahoma enacted two new laws designed to hold individuals and conspiring organizations criminally and civilly liable for trespassing or tampering with critical infrastructure. These two laws serve as inspiration for the ***Critical Infrastructure Protection Act***.

This proposal codifies criminal penalties for any individual convicted of willfully trespassing or entering property containing a critical infrastructure facility without permission from the owner of the property. Individuals would also be held liable for any damage to personal or real property committed while trespassing. Finally, it will also hold organizations both criminally and vicariously liable for conspiring with individuals who willfully trespass or damage critical infrastructure sites.

This model policy would help safeguard our nation's critical infrastructure, while also holding individuals and organizations accountable for tampering with, and disrupting operations.

We look forward to working with you as you continue to address this growing problem in your state.

Thank you for your consideration.

Sincerely,

American Chemistry Council
American Fuel & Petrochemical Manufacturers
American Gas Association
Edison Electric Institute
Energy Policy Network
Marathon Petroleum Corporation

ⁱ "Crude bomb left on Oklahoma gas line, FBI says," *CNN*, August 10, 2011, <http://www.cnn.com/2011/CRIME/08/10/oklahoma.pipe.bomb/index.html>.

ⁱⁱ "FBI Detonates Explosives Found In Plano Home," *KXAS-TV (NBC Dallas/Fort Worth)*, June 20, 2012, <https://www.nbcdfw.com/news/local/FBI-Detonate-Explosives-Found-in-Plano-Home-159555935.html>.

ⁱⁱⁱ "'Military-Style' Raid on California Power Station Spooks U.S.," *Foreign Policy*, December 27, 2013, <http://foreignpolicy.com/2013/12/27/military-style-raid-on-california-power-station-spooks-u-s/>.

^{iv} "Activists disrupt key Canada-U.S. oil pipelines," *Reuters*, October 11, 2016, <https://www.reuters.com/article/us-usa-canada-pipelines/activists-disrupt-key-canada-u-s-oil-pipelines-idUSKCN12B26O>.

^v "Dakota Access Pipeline vandalized before it comes online," *CNN*, March 21, 2017, <http://www.cnn.com/2017/03/21/us/dakota-access-pipeline-vandalism/index.html>.

^{vi} "Tribe delivers bottled water to Crow Agency after treatment facility was vandalized," *Billings Gazette*, October 5, 2017, http://billingsgazette.com/news/state-and-regional/montana/tribe-delivers-bottled-water-to-crow-agency-after-treatment-facility/article_1B33b0e3-f89e-57f0-901b-fa0d0172d076.html.